

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Northern Territory Racing Commission
Licensee:	Betfair Pty Ltd
Proceedings:	Pursuant to Section 80(D) of the <i>Racing and Betting Act</i> – Potential breaches of licence conditions.
Heard Before: (on papers)	John Boneham (Presiding Member)
Date of Decision:	16 August 2017

Background

1. On 16 February 2017, Mr H lodged a gambling dispute against Betfair submitting that the bookmaker had breached Responsible Gambling Practices and the *Interactive Gaming Act* (IGA) by allowing him to wager on an online casino resulting in a substantial monetary loss.
2. On 8 April 2017, the Delegate of the NT Racing Commission finalised Mr H's dispute finding in favour of the bookmaker as Mr H had clearly breached his agreed terms and conditions with Betfair (Clause 3 of Section 1 of Part C)
3. This Clause relates to the manipulation and interference of an IP Address of a computer in order to gain access to an unauthorised website, in this case, a third party online international casino.
4. In making their Determination the Delegate directed that a paper be presented at the next Commission Meeting late in April 2017.

Consideration of the Issues

5. The following issues were identified by the Delegate as being of concern.
 - a) Why Betfair did not act immediately to suspend Mr H's account (the matter was escalated on 15 February 2017 but the account was not suspended until the following day). This resulted in Mr H wagering another \$12,000 (losing \$6,000).
 - b) Upon requesting copies of telephone recordings, why a large and very pertinent portion of a conversation between Mr H and a betting operator cannot be heard due to a system malfunction.

- c) Why, despite being made aware by Mr H sometime in January 2017 that he was accessing online casino's using an altered IP Address did Betfair not at that time move to suspend his account and initiate an investigation.
6. On 23 May 2017, the Commission issued Betfair a Show Cause letter as to why it should not be issued a penalty for failing to comply with its license conditions pursuant to Section 80(D) of the *Racing and Betting Act*.
 7. On 7 June 2017, a detailed reply to the Show Cause letter was received from Mr Tim Moore-Barton CEO of Betfair.
 8. In summary, Mr Moore-Barton's reply highlighted the direct contravention by Mr H of his agreed terms and conditions with Betfair around the use of a VPN to access online casino services. He quoted directly Clause 3 of Section 1 of Part C which reads as follows:

"You will not disguise or interfere in any way with the address of the computer you are using to access the site or otherwise take steps to prevent us from correctly identifying the actual IP Address of the computer you are using whilst accessing the site".
 9. He further contends that given the Commission Delegates' Determination favouring Betfair in regard to Mr H's complaint, he considers that Betfair was not at fault in the delay that occurred between Mr H's advice that he had problematic gambling issues and the suspension of his account (one day).
 10. Mr Moore-Barton goes on to say that Mr H did not expressly request suspension of his account in his phone conversation with Betfair's phone operator, dated Wednesday 15 February 2017. Furthermore, he advises that the operator did offer Mr H the option of exclusion but it was not taken up by Mr H.
 11. Mr Moore-Barton then addresses the issue of the malfunctioning telephone call recording system.
 12. He states that whilst acknowledging that the call in question was in fact not recorded in its entirety, he is confident that Betfair's system is functional and adequate. A review of a number of calls recorded in other matters not having revealed any shortcomings in Betfair's systems.
 13. In conclusion Mr Moore-Barton advises the Commission that discussions are ongoing with Paddy Power Betfair PLC, on ways to prevent Australian account holders accessing their online casino services via the use of altered IP Addresses.

Decision

14. We confirm our Delegates decision in favour of Betfair with regards Mr H's complaint, as Mr H acted in clear contravention of his agreed terms and conditions with Betfair.

15. However the Commission is concerned at the inept and unprofessional way the matter was handled by Betfair's operational staff, which resulted in the one day delay in account suspension.
16. Of even greater concern to the Commission is the fact that despite Mr H advising an operator in January 2017, that he was accessing third party line casino services using his Australian account, nothing was done and no investigation commenced at that time.
17. The Commission considers such an admission should have raised significant "Red Flags" and prompted up line reporting and commencement of an immediate investigation into this matter.
18. Such an investigation did not commence until at least mid-February 2017, and only then as a result of Mr H's complaint.
19. Similarly we are not convinced of the integrity of Betfair's telephone recording system, given the break in recording that has occurred at a vital juncture in an important dispute.
20. By not being able to provide a portion of the relevant telephone conversation with Mr H, Betfair are in clear contravention of their licence conditions.
21. The Commission is extremely concerned at the inaction of Betfair in January 2017, when despite a clear indication in their records that they were made aware that a client could access an online casino, albeit using an altered IP Address.
22. The question then arises as to how many other Betfair Australian account holders are able to do the same.
23. The non-recording of telephone conversations is a clear breach of Section 80(D) of the *Racing and Betting Act* which reads:
 - 80.1 "The Commission may discipline a bookmaker by reprimanding him, imposing on him a fine not exceeding 17 Penalty Units or, in the case of a sports bookmaker, not exceeding 170 Penalty Units, or suspending or cancelling a licence or permit granted under this part if it is satisfied that the bookmaker
 - d) Has failed to comply with a condition of his licence or Permit".
25. In this instance we consider that the breach does not warrant suspension or cancellation of Betfair's licence. However we do consider it to be serious enough to warrant a monetary fine.
26. This is set at 85 Penalty Units with a current monetary value of \$154.00. The total fine being \$13,090.00.
27. Furthermore the Commission requires Betfair to provide updated advice of any remedial steps taken to ensure the ongoing integrity of its telephone recording system.

28. The Commission also requires Betfair to advise what steps it has taken and the progress of such steps, to ensure that Australian account holders are unable to access online casino sites by the use of altered IP Addresses or other means.

29. The above mentioned fine and the requested systems updates are required to be provided by 30 September 2017.

A handwritten signature in black ink, appearing to read 'John Boneham', is written over the printed name and title.

John Boneham
Presiding Member
Northern Territory Racing Commission

16 August 2017